



Attorney Docket No. LU 6134

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:
Benno BILDSTEIN, et al.

Serial No.: 10/573,228

Group Art Unit: 1796

Filed: March 24, 2006

Examiner: C.C. LU

For: POLYMERIZATION CATALYSTS, PREPARATION OF POLYOLEFINS,
ORGANOTRANSITION METAL COMPOUNDS AND LIGANDS

PETITION UNDER 37 C.F.R. §1.181 FOR WITHDRAWAL OF HOLDING OF
ABANDONMENT UNDER 37 C.F.R. §1.135

MS Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicant respectfully requests the U.S. Patent and Trademark Office (herein referred to as "the Office") to withdraw the holding of abandonment under 37 C.F.R. §1.135 and reinstate the pending status of the above-identified application, rescind the Notice of Abandonment issued by the Office on July 23, 2008, and re-issue, including resetting the time period for response to, the Office Action originally issued on July 9, 2007 by the Office.

On August 8, 2008, Applicant received a copy of a Notice of Abandonment for the instant application (Exhibit A), which had been mailed by the Office to Connolly Bove Lodge & Hutz LLP on July 23, 2008. The Notice of Abandonment stated that an Office Action was mailed on July 30, 2007 [sic], and that the application went abandoned for failure to timely file a proper

reply to the Action. However, Applicant's current representative of record, which was also the representative of record at the time of mailing of the Office Action issued July 9, 2007, Basell USA Inc., never received the Office Action at issue, nor did Applicant's previous attorneys of record, which is corroborated by the declaration signed by Ms. Mary Hope Delaney of Connolly Bove Lodge & Hutz LLP (Exhibit B).

In particular, on May 11, 2007, Applicant filed with the Office a new Power of Attorney and change of correspondence address for the instant application (Exhibit C). The new Power of Attorney was received by the Office on May 14, 2007, as evidenced by the stamped return postcard (Exhibit D). Additionally, on May 24, 2007, Applicant's new counsel of record (i.e., Basell USA Inc.) submitted a Response, including the new correspondence address, to the Restriction Requirement issued by the Office on April 24, 2007 (Exhibit E and F, respectively). However, nearly two months after the new Power of Attorney was filed at the Office by Applicant (Exhibit C), and after Applicant already filed a Response from Applicant's new representation, the Office issued an Office Action on July 9, 2007, which was supposedly sent to Applicant's old attorneys' address at Connolly Bove Lodge & Hutz LLP instead of the proper addressee at Basell USA Inc. Accordingly, the Office misdirected the Office Action of July 9, 2007, as well as the Notice of Abandonment issued July 23, 2008 (Exhibit A), to the previous law firm in charge of the instant application (i.e., Connolly Bove Lodge & Hutz LLP), after Applicant had filed a new Power of Attorney and change of correspondence address with the Office (Exhibit C).

Notwithstanding this error, as outlined in the declaration submitted by Ms. Mary Hope Delaney (Exhibit B), the Office

Action originally issued by the Office on July 9, 2007 was never received by Connolly Bove Lodge & Hutz LLP, nor was the originally issued Office Action of July 9, 2007 ever received by Applicant at Basell USA Inc. Therefore, Applicant was unaware of the Office Action issued on July 9, 2007, and as such was unable to provide the requisite response by the ultimate deadline of January 9, 2008.

Applicant eventually became aware of the outstanding Office Action issued by the Office on July 9, 2007 for the instant application, when the previous law firm in charge (i.e., Connolly Bove Lodge & Hutz LLP) telephoned Ms. Jolene Outten, a senior paralegal in the Intellectual Property Department for Basell USA Inc., on March 6, 2008, which was nearly 2-months after the application had already become abandoned, to inform Applicant that a clerk at the Office had recently telephoned Connolly Bove Lodge & Hutz LLP concerning the instant application, and to inquire whether a Response to the Office Action at issue had been filed. After receiving the message from Applicant's previous counsel, Ms. Outten immediately called the clerk and left a detailed message regarding the instant application, as well as her name and telephone number. On May 10, 2008, after not receiving any response to her previous message, Ms. Outten called the clerk again to learn that the Office had not recorded Applicant's previously filed Power of Attorney and change in correspondence address request (Exhibit C).

After unsuccessfully receiving any further correspondence or communication from the Office regarding the instant application, on April 25, 2008, Ms. Outten telephoned Examiner Caixia Lu, who directed her to supervisor Wu, since this was viewed as an "administrative matter". Ms. Outten then contacted

supervisor Wu by telephone on the same day, and was informed that this issue was an administrative error on the part of the Office, and supervisor Wu assured Ms. Outten that he would have the outstanding Office Action re-dated and re-sent to Applicant at the proper address. However, to date, Applicant has not received a Notice rescinding the Notice of Abandonment issued on July 23, 2008 (Exhibit A), nor has Applicant received a re-dated copy of the Office Action issued on July 9, 2007, which was errantly sent to the wrong address, and which was not received by Applicant's previous counsel (Exhibit B), nor received by Applicant at Basell USA Inc.

Thus, to summarize, on May 11, 2007 Applicant appointed Basell USA Inc. as the attorneys of record, and submitted a change of correspondence address to the Office (Exhibit C). On July 9, 2007 the Office issued an Office Action, which was mailed to the wrong address, and was not received by Applicant at Basell USA Inc., nor by Applicant's previous counsel (Exhibit B). Thus, the misdirection of the Office Action issued on July 9, 2007 in the instant application by the Office, as evidenced by the address on the Action mailed July 9, 2007, as well as the Notice mailed July 23, 2008 (Exhibit A), has caused the instant application to now become abandoned. Since the abandonment of the instant application was not due to the fault of Applicant, given Applicant properly notified the Office of the change in representation and correspondence address, as well as was unaware of the Office Action issued by the Office on July 9, 2007 until after the application was already abandoned, Applicant respectfully requests the Office to withdraw the holding of abandonment under 37 C.F.R. §1.135 and reinstate the pending status of the instant application, rescind the Notice of Abandonment issued by the Office on July 23, 2008, and re-issue

to the correct address, including resetting the time period for response to, the Office Action originally issued on July 9, 2007 by the Office.

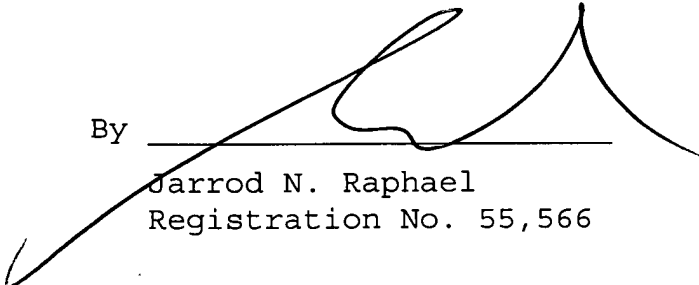
Applicant believes no fee is due with the petition since the instant application became abandoned due to the Office issuing the Office Action of July 9, 2007 to the wrong address, which also led to the Office Action in question not being received by Applicant or Applicant's previous counsel. However, if there is any fee required with this paper, Applicant respectfully requests the Commissioner to charge Deposit Account No. 08-2336.

A prompt and favorable action is earnestly solicited.

Respectfully submitted,

WOLFGANG ROHDE

By



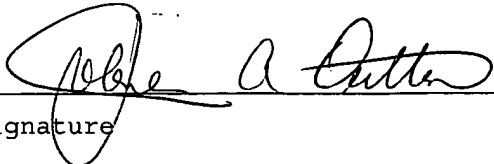
Jarrod N. Raphael
Registration No. 55,566

Basell USA Inc.
Registration No. 55,566
Delaware Corporate Center II
2 Righter Parkway, Suite 300
Wilmington, DE 19803

November 12, 2008

Agent's Telephone No.: 302-683-8176
Agent's Facsimile No.: 302-731-6408
Agent's E-mail: jarrod.rafael@lyondellbasell.com

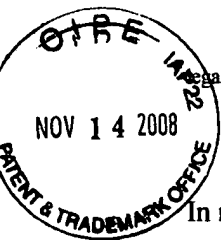
I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Petitions, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450 on November 12, 2008.



Signature

November 12 2008

Date



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of

Benno BILDSTEIN et al.

Serial No. **10/573,228**

Filed **March 24, 2006**

For **POLYMERIZATION CATALYSTS,
PREPARATION OF POLYOLEFINS,
ORGANOTRANSITION METAL
COMPOUNDS AND LIGANDS**

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)
)
) **Art Unit 1796**
)
) **Examiner C. Caixia Lu**
)
)
)
)

Mail Stop Petitions
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Sir:

TRANSMITTAL LETTER

Submitted herewith for filing in the U.S. Patent and Trademark Office are the following:

- ☒ Postcard
- ☒ Transmittal Letter
- ☒ Petition under 37 CFR 1.181 to Withdraw Holding of Abandonment (6 pages)
- ☒ Exhibit A (copy of Notice of Abandonment) (2 pages)
- ☒ Exhibit B (Declaration of Mary Hope Delaney w/ attachment) (5 pages)
- ☒ Exhibit C (copy of Power of Attorney and Statement Under 37 CFR 3.73(b)) (2 pages)
- ☒ Exhibit D (copy of receipt acknowledgment card f/ Exhibit C above) (1 page)
- ☒ Exhibit E (copy of Response to Election/Restriction Requirement w/ acknow card) (14 pages)
- ☒ Exhibit F (copy of OA mailed April 24, 2007) (6 pages)

The Commissioner for Patents is hereby authorized to charge the required fees, any deficiency, or credit any overpayment, to Deposit Account Number 08-2336, in relation to the above-identified application.

Respectfully submitted,

BENNO BILDSTEIN ET AL.

By


Jarrod N. Raphael
Registration No. **55,566**
Agent for Applicant

Basell USA Inc.
Delaware Corporate Center II
2 Righter Parkway, Suite 300
Wilmington, DE 19803
Date: **November 12, 2008**



UNITED STATES PATENT AND TRADEMARK OFFICE

Exhibit A

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

44 6134

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/573,228

03/24/2006

Benno Bildstein

~~0908600233US~~

5031

23416 7590 07/23/2008
CONNOLLY BOVE LODGE & HUTZ, LLP
P O BOX 2207
WILMINGTON, DE 19899

EXAMINER

LU, C CAIXIA

ART UNIT

PAPER NUMBER

1796

MAIL DATE

DELIVERY MODE

07/23/2008

PAPER

SCANNED

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of Abandonment

Application No.

10/573,228

Examiner

Caixia Lu

Applicant(s)

BILDSTEIN ET AL.

Art Unit

1796

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address–

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 30 July 2007.

(a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.

(b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.

(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).

(c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).

(d) ☒ No reply has been received.

2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).

(a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).

(b) ☐ The submitted fee of \$_____ is insufficient. A balance of \$_____ is due.

The issue fee required by 37 CFR 1.18 is \$_____. The publication fee, if required by 37 CFR 1.18(d), is \$_____.

(c) ☐ The issue fee and publication fee, if applicable, has not been received.

3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).

(a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.

(b) ☐ No corrected drawings have been received.

4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.

5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.

6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.

7. ☐ The reason(s) below:

/Caixia Lu/

Primary Examiner, Art Unit 1796

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

Exhibit B

Docket No. LU 6134
(Patent)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Benno Bildstein et al.

Application No.: 10/573,228

Confirmation No.: 5031

Filed: March 24, 2006

Art Unit: 1796

For: POLYMERIZATION CATALYSTS,
PREPARATION OF POLYOLEFINS,
ORGANOTRANSITION METAL
COMPOUNDS AND LIGANDS

Examiner: Caixia Lu

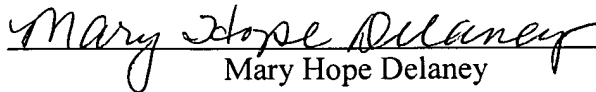
DECLARATION OF MARY HOPE DELANEY

I, MARY HOPE DELANEY, of legal age, being duly sworn, do hereby depose and state the following:

1. My name is Mary Hope Delaney and I am over eighteen years of age, of sound mind and fully competent to make this declaration. I have personal knowledge of the facts stated herein and they are true and correct.
2. I am currently employed as Docket Administrator at Connolly Bove Lodge & Hutz LLP ("CBLH").
3. I am currently a resident of the State of Delaware and my office is located at 1007 N. Orange Street, 8th Floor, Wilmington, DE 19801.
4. All mail from the United States Patent and Trademark Office ("USPTO") is received in CBLH's mailroom. This mail is then forwarded to my attention.
5. CBLH uses Computer Packages, Inc. ("CPI") for docketing purposes.

6. I first docket each piece of mail from the USPTO into CPI and then forward the mail to the appropriate attorney or agent.
7. Attached as Exhibit 1 is a copy of the CPI cover sheet for the instant case. This coversheet shows the date and description of each item of mail from the USPTO for this case.
8. The CPI cover does not indicate that CBLH received an Office Action dated July 9, 2007 from the USPTO. Therefore, I attest that this Office Action was never received.
9. I hereby declare under penalty of perjury under the laws of the United States of America that the facts provided by me in this Declaration are to the best of my knowledge, belief, and understanding true and correct, and represent a true and accurate statement of the information supplied herein.

Executed this 6th day of November, 2008, at
Wilmington, Delaware.



Mary Hope Delaney

EXHIBIT

1

Country Application

Thursday, November 06, 2008

Page: 1

Case Number: 09086-00233

Country: US

SubCase:

Client: Basell Polyolefine GmbH

United States of America

Case Type: PCT

Application Status: Transferred

RO: DE

Application Number: 10/573228

Filing Date: 24-Mar-2006

Publication Number: US-2007-0004884-A1

Publication Date: 04-Jan-2007

Patent Number:

Issue Date:

Parent/PCT Number: EP04/010377

Parent/PCT Date : 16-Sep-2004

Parent Issue Number:

Parent Issue Date :

Tax Schedule: LE

Expiration Date:

Confirmation #: 5031

Patent Term Adjustment: 0

Owner:

Agent:

Agent Reference #:

Confidential/Security Case: ☐

Related Case:

App.Title: POLYMERIZATION CATALYSTS, PREPARATION OF POLYOLEFINS,
ORGANOTRANSITION METAL COMPOUNDS AND LIGANDS

Attorney(s): AIP

HCR

Family Reference:

Client Ref.: LU6134/CB US

Inventors:

BILDSTEIN, BENNO

KRAJETE, ALEXANDER

App. Client Ref.:

Remarks: LU6134/CB US

7/25/08 - Corrected filing Receipt

7/23/08 - Notice of Abandonment - forwarded to AIP

7/30/07 - Corrected Filing Receipt

4/24/07 - Restriction Requirement - forwarded to HCR for sending to the client

5/22/2006 - CASE HAS BEEN RETURNED TO BASELL FOR PROSECUTION

List Of Actions

Action(s) Due	Due Date		Action Taken
20 month date	25-May-2005	Due Date	24-Mar-2006
New appln due 3/25	24-Mar-2006	Reminder	24-Mar-2006
30 month date	25-Mar-2006	Due Date	24-Mar-2006
30 month/LastDayToFileNewApp	25-Mar-2006	Due Date	24-Mar-2006
postcard received?	14-Apr-2006	Due Date	14-Apr-2006
Awaiting Serial No. Postcard	24-Apr-2006	Reminder	18-Apr-2006
postcard received?	28-Apr-2006	Due Date	18-Apr-2006
Awaiting Filing Receipt	24-May-2006	Reminder	22-May-2006
check entity status	24-May-2006	Reminder	22-May-2006
Entity status?	24-Jun-2006	Due Date	22-May-2006
Information Disclosure Stmt	24-Jun-2006	Due Date	22-May-2006
Application Status Check	24-Mar-2007	Due Date	22-May-2006
Application Status Check	24-Sep-2007	Due Date	22-May-2006
Application Status Check	24-Mar-2008	Due Date	22-May-2006

Created By: pturner**User ID:** mhd**Date Created:** 10-Feb-2006**Last Update:** 29-Jul-2008

Exhibit C

PTO/SB/80 (01-06)

Approved for use through 12/31/2008. OMB 0651-0035

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

POWER OF ATTORNEY TO PROSECUTE APPLICATIONS BEFORE THE USPTO

I hereby revoke all previous powers of attorney given in the application identified in the attached statement under 37 CFR 3.73(b).

I hereby appoint:

☒ Practitioners associated with the Customer Number:

34872

OR

☐ Practitioner(s) named below (if more than ten patent practitioners are to be named, then a customer number must be used):

Name	Registration Number	Name	Registration Number

as attorney(s) or agent(s) to represent the undersigned before the United States Patent and Trademark Office (USPTO) in connection with any and all patent applications assigned only to the undersigned according to the USPTO assignment records or assignment documents attached to this form in accordance with 37 CFR 3.73(b).

Please change the correspondence address for the application identified in the attached statement under 37 CFR 3.73(b) to:

☒ The address associated with Customer Number:

34872

OR

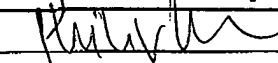
<input type="checkbox"/> Firm or Individual Name			
Address			
City	State	Zip	
Country			
Telephone	Email		

Assignee Name and Address:
 Basell Polyolefine GmbH
 Bruehler Strasse 60
 Wesseling DE-50389
 Germany

A copy of this form, together with a statement under 37 CFR 3.73(b) (Form PTO/SB/96 or equivalent) is required to be filed in each application in which this form is used. The statement under 37 CFR 3.73(b) may be completed by one of the practitioners appointed in this form if the appointed practitioner is authorized to act on behalf of the assignee, and must identify the application in which this Power of Attorney is to be filed.

SIGNATURE of Assignee of Record

The individual whose signature and title is supplied below is authorized to act on behalf of the assignee

Signature		Date	August 25, 2006
Name	Philip Lindsten	Telephone	011-39-0532-46-7560
Title	Duly Authorized Attorney		

This collection of information is required by 37 CFR 1.31, 1.32 and 1.33. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 3 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: Basell Polyolefine GmbH

Application No./Patent No./Control No.: 10/573,228 Filed/Issue Date: March 24, 2006

Entitled: POLYMERIZATION CATALYSTS, PREPARATION OF POLYOLEFINS, ORGANOTRANSITION METAL COMPOUNDS AND LIGANDS

Basell Polyolefine GmbH, a corporation

(Name of Assignee)

(Type of Assignee: corporation, partnership, university, government agency, etc.)

states that it is:

1. ☒ the assignee of the entire right, title, and interest; or
2. ☐ an assignee of less than the entire right, title and interest
(The extent (by percentage) of its ownership interest is _____ %)

in the patent application/patent identified above by virtue of either:

A. ☒ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel 019228, Frame 0067, or a true copy of the original assignment is attached.

OR

B. ☐ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as follows:

1. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.
2. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.
3. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

☐ Additional documents in the chain of title are listed on a supplemental sheet.

As required by 37 CFR 3.73(b)(1)(i), the documentary evidence of the chain of title from the original owner to the assignee was, or concurrently is being, submitted for recordation pursuant to 37 CFR 3.11.

[NOTE: A separate copy (i.e., a true copy of the original assignment document(s)) must be submitted to Assignment Division in accordance with 37 CFR Part 3, to record the assignment in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

William R. Reid
Signature

May 11, 2007

Date

William R. Reid

410-996-1783

Printed or Typed Name

Telephone Number

Patent Attorney Reg. No. 47,894 (Customer Number 34872)

Title

This collection of information is required by 37 CFR 3.73(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Atty Dkt No: LU 6134 (US)

Exhibit E

The PTO date stamp hereon is in acknowledgment that on this date PTO received:

Received Basell

TRANSMITTAL LETTER
RESPONSE TO ELECTION/RESTRICTION REQ. (6 pages)
ATTACHMENT A - CLAIMS (6 pages)

MAY 30 2007

IP / Law

in reference to U.S. Application of Benno BILDSTEIN et al.,
S.N. 10/573,228, filed March 24, 2006.

Atty Dkt No: LU 6134 (US)

